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LEONARDO M. RAPADAS  
United States Attorney  
KARON V. JOHNSON  
Assistant U.S. Attorney  
Suite 500, Sirena Plaza  
108 Hernan Cortez Avenue  
Hagatna, Guam 96910  
Telephone: (671) 472-7332/7283  
Telecopier: (671) 472-7334

**FILED**  
DISTRICT COURT OF GUAM

APR - 5 2006

MARY L.M. MORAN  
CLERK OF COURT

Attorneys for the United States of America

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF GUAM

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

LIN CHEN,  
Defendant.

CRIMINAL CASE NO. 01-00051

PLEA AGREEMENT

Pursuant to Rule 11(c)(1)(c), the United States and the defendant, LIN CHEN, enter into the following plea agreement:

1. The defendant agrees to enter a guilty plea to Count I of an Indictment charging him with Perjury in violation of Title 18, United States Code, Section 1621. The government will move to dismiss Count II at the time of sentencing.

2. The defendant, LIN CHEN, understands that the maximum sentence for Perjury is a term of five (5) years imprisonment, a \$250,000 fine, and a \$100 special assessment fee, which must be paid at the time of sentencing. Any sentence imposed may include a term of supervised release of not more than three (3) years in addition to such terms of imprisonment. Defendant understands that if he violates a condition of supervised release at any time prior to the expiration of such term, the court may revoke the term of supervised release and sentence him up to an additional one (1) year of incarceration pursuant to 18 U.S.C. § 3583(e)(3). The parties agree

1 that the proper sentence in this case is a sentence of time served to be followed by two (2) years  
2 of supervised release and defendant shall be turned over to a duly authorized immigration official  
3 for deportation proceedings pursuant to Title 18, United States Code, Section 3583(d) and  
4 defendant shall pay a \$100 special assessment fee. There will be no fine in this case.

5 3. The defendant understands that to establish a violation of Perjury as charged pursuant  
6 to 18 U.S.C. § 1621, the government must prove each of the following elements beyond a  
7 reasonable doubt:

8 First: the defendant testified under oath in writing that he had entered  
9 the United States on June 3, 2000, as a fisherman aboard the fishing  
vessel He Xing Long;

10 Second: this testimony was false;

11 Third: the false testimony was material to the matters before the  
12 Immigration and Naturalization Service; and

13 Fourth: the defendant acted willfully, that is deliberately and with  
knowledge that the testimony was false.

14 4. The defendant agrees that the Sentencing Guidelines apply to this offense. The  
15 defendant also understands that the facts he stipulates to herein will be used, pursuant to 1B1.2,  
16 in calculating the applicable guidelines level. The Government and the defendant stipulate to the  
17 following facts for purposes of the Sentencing Guidelines:

18 (a) The defendant was born in 1982, and is a citizen of the People's Republic of China.

19 (b) On October 19, 2000, defendant submitted a written Application for Asylum and  
20 Withholding of Removal (Form I-589) to the Immigration and Naturalization Service (INS). His  
21 application was submitted under penalty of perjury pursuant to 28 U.S.C. § 1746. In that  
22 application he stated that he had arrived in the United States June 3, 2000, as a crew member of  
23 the fishing vessel He Xing Long. This statement was material to this Application for Asylum.  
24 This written statement was false, in that defendant did not enter Guam on June 3, 2000, and there  
25 is no fishing vessel named the He Xing Long. Defendant deliberately and knowingly made this  
26 false statement to conceal from the INS the true manner and date on which he had entered Guam.

1 (c) The defendant understands that notwithstanding any agreement of the parties, the  
2 United States Probation Office will make an independent application of the Sentencing  
3 Guidelines. The defendant acknowledges that should there be discrepancies in the final  
4 sentencing guidelines range projected by his counsel or any other person, such discrepancies are  
5 not a basis to withdraw his guilty plea.

6 5. In exchange for the Government's concessions in this plea agreement, the defendant  
7 waives any right to appeal or to collaterally attack this conviction but reserves the right to appeal  
8 the sentence imposed in this case. He agrees to waive all constitutional challenges to the validity  
9 of the Sentencing Guidelines. The defendant agrees that the government has bargained for a  
10 criminal conviction arising from his conduct. If at any time defendant's guilty plea or conviction  
11 is rejected, withdrawn, vacated or reversed, for whatever reason, or if any change of law renders  
12 the conduct for which he was convicted to be non-criminal, defendant agrees that he will enter a  
13 guilty plea to another charge encompassing the same or similar conduct. In such event,  
14 defendant waives any objections, motions or defenses based upon the Statute of Limitations,  
15 Speedy Trial Act, or constitutional restrictions as to the time of bringing such charges.

16 6. The defendant acknowledges that he has been advised of his rights as set forth below  
17 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has  
18 had sufficient opportunity to reflect upon, and understands the following:

19 (a) The nature and elements of the charge and the mandatory minimum penalty provided  
20 by law, if any, and the maximum possible penalty provided by law;

21 (b) His right to be represented by an attorney;

22 (c) His right to plead not guilty and the right to be tried by a jury and at that trial, the  
23 right to be represented by counsel, the right to confront and cross-examine witnesses against him,  
24 and the right not to be compelled to incriminate himself, that is, the right not to testify;

25 (d) That if he pleads guilty, there will not be a further trial of any kind on the charges to  
26 which such plea is entered so that by entering into this plea agreement, he waives, that is, gives  
27 up, the right to a trial;

1 (e) Because this plea is entered pursuant to Federal Rule of Criminal Procedure  
2 11(c)(1)(B), the defendant understands that he may not withdraw his guilty plea even if the court  
3 does not accept the sentencing recommendations of the government or his counsel;

4 (f) That, upon entry of a plea of guilty, or thereafter, the Court may ask him questions  
5 about the offenses to which he has pled, under oath, and that if he answers these questions under  
6 oath, on the record, his answers may later be used against him in prosecution for perjury or false  
7 statement if an answer is untrue;

8 (g) That he agrees that the plea agreement is voluntary and not a result of any force,  
9 threats or promises apart from this plea agreement;

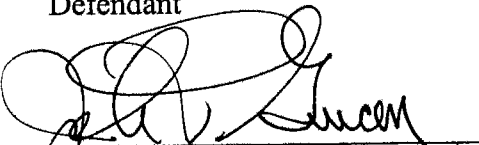
10 (h) The defendant is satisfied with the representation of his lawyer and feels that his  
11 lawyer has done everything possible for his defense;

12 (i) That this plea agreement has been translated into his native language, Mandarin, and  
13 he fully understands it.

14  
15 DATED: 4/5/06

  
LIN CHEN  
Defendant

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18 DATED: 4/5/06

  
JOHN GORMAN  
Attorney for Defendant


LEONARDO M. RAPADAS  
United States Attorney  
Districts of Guam and NMI

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23 DATED: 4.5.06

By: 

KARON V. JOHNSON  
Assistant U.S. Attorney

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26 DATED: 4.5.06

  
RUSSELL C. STODDARD  
First Assistant U.S. Attorney